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## Real Estate Commission Receives International Education Award

The Association of Real Estate License Law Officials (ARELLO) has awarded the 2005 ARELLO Education Recognition Award to the South Dakota Real Estate Commission for its 2004 Caravan Course, "Meth: Closer Than You Think".

The course was selected as the Outstanding Post-Licensing/Continuing Education Program. The purpose of the education recognition awards program is to recognize outstanding education programs that contribute to the real estate industry and promote the protection of the public.

ARELLO is an international organization that supports jurisdictions in the administration and enforcement of real estate license laws to promote and protect the public interest. Its member organizations represent nearly every continent on the globe.

**Pictured Below:** Executive Director Dee Jones Noordermeer receives the 2005 ARELLO Education Recognition Award from Dr. Wayne Thorburn, outgoing ARELLO President, at the ARELLO Annual Conference, October 1<sup>st</sup> in Toronto, Ontario.



## A Letter From the Chairman



Greetings and salutations! As I start to write this article I have the “Good News- Bad News” scenario. The good news comes from the Association of Real Estate License Law Officials (ARELLO).

First off, our commission received the post licensing/continuing education of the year award at ARELLO’s annual conference. In addition, I’ve been elected to the ARELLO Board of Directors, which is both an honor and good for the state. I’m on the “TIC” (tenets-in-common) task force and the Home Inspectors Task force at this time. There were great programs at the ARELLO conference, including one on Mortgage Fraud which RESPA is looking into and Meth and Real Estate **which was presented by our own Dee Jones-Noordermeer, who, by the way, received numerous kudos for her excellent presentation.**

The “Bad News” is that our longest standing commissioner and good friend, Loren Anderson has resigned from the Real Estate Commission effective immediately. Loren has spent his life trying to make real estate a better vocation — first as an educator, than as a legislator, an owner of a firm and a four term member of the Commission. His wit and wisdom will be greatly missed. So tell him “thank you” the next time you see him.

Lastly, remember that your renewals are due November 30<sup>th</sup>, not January 1<sup>st</sup>. Please get those in ASAP as you do not want to lose the right to make a living. Along with the renewal, send in your errors and omissions insurance premiums so that 2006 will be the best year yet. And brokers remember — as of January 1<sup>st</sup>, if any of your associates don’t have a license with “2006” on it, you need to take over the listings and/or buyer agency agreements. You can’t associate with anyone who has an inactive license or no license at all!

On behalf of the Commission, have a safe and happy Thanksgiving.

Until next issue,  
Charlie

## From the Director’s Desk



Fall is certainly upon us. I hope you have been able to enjoy the artist’s palette created by the beautiful colors exhibited in the shelter belts and parks across this great state.

Fall also means it’s time for many of you to renew your licenses. By reading all the renewal information, completing the form as instructed and having your continuing education completed will expedite the renewal process. Keep in mind — to avoid incurring late fees, renewals must be received by the Commission office no later than November 30, 2005. Renewals received on December 1<sup>st</sup> and later will be returned for late fees.

I recently became aware of a real estate scam that has appeared in South Dakota. Apparently an agent receives a check for several thousand dollars with instructions to write an offer on one of the agent’s listed properties. After earnest money is determined, which is always less than the check given to the agent, and the offer is accepted, the buyer requests a refund of the remaining balance. The buyer receives a refund check which is cashed immediately. By the time the first check is found to be fraudulent, the buyer is long gone with the cash from the refund check. If you end up being one of the “lucky” individuals to receive a check and instructions like this,

please contact the Commission office or the Attorney General’s office.

The administrative rules appearing in this issue are currently in effect. Please review them carefully and if you have any question, contact the Commission office.

After serving 12 years on the Real Estate Commission, Loren Anderson recently resigned his seat. The Commission benefited from his wealth of knowledge and fairness. As an experienced real estate broker and educator, and former legislator, Loren has been invaluable as my source of guidance on many issues. I personally want to thank you, Loren, for your years of service and dedication to the Commission and the citizens of the great state of South Dakota. In addition to being short a Commission member, the Commission will be short one auditor/investigator. Nancy Peck recently submitted her resignation to pursue other career opportunities. Nancy has been a valued employee who conducted herself professionally, yet had the knack of establishing an excellent rapport with those she audited, as well as those of us who had the extreme pleasure of working beside her. Nancy, I wish you success and thank you for your dedication to the Real Estate Commission and the State of South Dakota.

I wish you all a memorable Thanksgiving and let us not forget our brave and dedicated men and women in the armed services. When you’re sitting around the holiday table please remember the people from around the world who have been victimized at the hands of Mother Nature.

*DjN*

**Picture Right:**  
**Commission**  
**Chair Charles**  
**Larkin and**  
**Ann Millben,**  
**Michigan Real**  
**Estate**  
**Licensing**  
**Administrator,**  
**seem pleased**  
**about being**  
**elected to the**  
**Board of**  
**Directors of**  
**ARELLO at**  
**the 2005**  
**Conference in**  
**Toronto.**



# New Administrative Rules in Effect

## CHAPTER 20:69:16 DISCLOSURE

### Section

20:69:16:01 Disclosure - Generally.

20:69:16:02 Repealed.

20:69:16:03 Appointed agent procedure.

20:69:16:04 Appointed agent disclosure.

20:69:16:05 Appointed agent responsibilities.

20:69:16:06 Designated broker.

20:69:16:07 Licensee's duty to responsible broker or designated broker.

20:69:16:08 Responsible broker or designated broker may appoint broker or broker associate to exclusively represent client.

20:69:16:09 Responsible broker or designated broker appointing team to exclusively represent client — Licensee or licensees within team representing both parties to same transaction.

20:69:16:10 Limited agency when appointed agent's client becomes interested in listing procured by responsible broker or designated broker.

### 20:69:16:01. Disclosure - Generally.

Disclosures must be made on a form substantially the same as the real estate relationships disclosure form prescribed by the commission. The form shall contain the requirements imposed by SDCL36-21A-147, the types of agency and brokerage relationships the broker offers, acknowledgment that the consumer has received the real estate consumer guide for the sale and purchase of residential real property, and acknowledgment of any consumer not being represented in the real estate transaction. However, a residential property manager acting as an agent for an owner may include an agency relationship disclosure in an application to lease or other document. The disclosure must be in italics or bold print and must include one of the following statements: "I, (name), a real estate licensee, am representing the owner in this transaction. All agents of (name of company) represent the owner in this and any other transaction."

A real estate licensee acting as an auctioneer may comply with the disclosure requirements by including a statement on any printed advertisement and making an announcement at the beginning of the auction. The disclosure must state that the licensees are representing the seller or sellers.

**20:69:16:03. Appointed agent procedure.** Prior to entering into a listing or agency agreement, a real estate licensee shall notify a client in writing of the real estate brokerage's appointed agent policy and those affiliated licensees within the real estate

brokerage that will act as appointed agents of that client to the exclusion of all other affiliated licensees within the real estate brokerage.

A brokerage may not, without the written consent of the client, appoint an affiliated licensee to act as an appointed agent in any transaction involving a written exclusive single agency or limited agency agreement that was in effect prior to the broker implementing the appointed agent relationship.

If the client of an appointed agent demonstrates interest in a property on which the responsible broker has an existing exclusive single agent or limited agent brokerage agreement, the broker may not permit the use of the appointed agent without first obtaining the written consent of that seller or landlord to the appointed agent relationship. If the written consent of the client to allow the appointed agent relationship is not given or cannot be obtained, the broker shall refer the client of the appointed agent to another broker for representation for the purpose of considering such property.

**20:69:16:04. Appointed agent disclosure.** The appointed agent disclosure shall include, at a minimum, the following provisions:

(1) The name of any appointed agent;

(2) A statement that the appointed agent will represent the client as the client's agent and will owe the client duties as set forth in SDCL 36-21A-132 and 36-21A-133;

(3) A statement that the brokerage may represent both the seller and the buyer in connection with the sale or purchase of real estate;

(4) A statement that another affiliated licensee may be appointed during the term of the agency agreement if the appointed agent is not able to fulfill the terms of the agency agreement or if the responsible broker and the client agree. An appointment of another affiliated licensee or an additional affiliated licensee does not relieve the first appointed agent of any duties owed to the client; and

(5) A provision for the client to consent or not consent in writing to the agreement.

**20:69:16:05. Appointed agent responsibilities.** An appointed agent may disclose to the brokerage's responsible broker or designated broker confidential information of a client for the purpose of seeking advice or assistance for the benefit of the client in regard to a possible transaction, or to comply with the broker's supervisory duties. Confidential information shall be treated as

such by the responsible broker or designated broker and may not be disclosed unless otherwise required by statute or rule or requested or permitted in writing by the client who originally disclosed the confidential information.

If a responsible broker appoints an agent and the appointed agent also acts in a supervisory capacity under the responsible broker, such as a branch manager or sales manager, the appointed agent may be treated in the same manner as the responsible broker for purposes of determining limited agency only if the responsible broker authorizes and provides for such supervisory positions in the written policy.

## *South Dakota Real Estate VIEW*

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### THE COMMISSION AND STAFF

Charles Larkin, Chairman ... Watertown  
Brian Jackson, Vice-Chair... Sioux Falls  
Eileen Fischer, Member ..... Pierre  
Dennis Eisnach, Member ..... Pierre  
Dee Jones Noordermeer,

Executive Director ..... Pierre  
Karen Callahan,

Education Director ..... Pierre  
Norma Schilling, Licensing ..... Pierre  
Nancy Peck, Auditor..... Pierre  
Tim Buseman, Auditor..... Sioux Falls

Articles by outside experts express the author's particular viewpoints. These opinions are not necessarily shared by the Commission, nor should they be mistaken for official policy. The articles are included because they may be of interest to the readers.

**20:69:16:06. Designated broker.** A responsible broker may authorize and appoint a designated broker in a capacity to supervise and assist a licensee appointed to exclusively represent a seller or landlord in a transaction. A responsible broker may authorize and appoint a designated broker in a capacity to supervise and assist a licensee appointed to exclusively represent a buyer or tenant in a transaction. A designated broker authorized and appointed to supervise and assist a licensee appointed to represent a seller or landlord, or buyer or tenant, exclusively, has the same duties, obligations, and responsibilities as the responsible broker. The use of an authorized appointed agent does not relieve the responsible broker of duties, obligations, or responsibilities required by any statute or rule.

**20:69:16:07. Licensee's duty to responsible broker or designated broker.** A licensee shall keep the brokerage's responsible broker or designated broker fully informed of any activity conducted on behalf of the brokerage and shall notify the responsible broker or designated broker of any other activity that might impact the responsibility of the responsible broker or designated broker.

**20:69:16:08. Responsible broker may appoint broker or broker associate to exclusively represent client.** A responsible broker or designated broker may appoint a broker or broker associate having an ownership interest in the same firm as the responsible broker to act as an appointed agent to exclusively represent a seller or landlord or a buyer or tenant.

**20:69:16:09. Responsible broker or designated broker appointing team to exclusively represent client — Licensee within team representing both parties to same transaction.** If a responsible broker or designated broker appoints a licensee who performs real estate transactions within a team of licensees associated with the same responsible broker, the responsible broker or designated broker must appoint every licensee within the team to exclusively represent the same client. If any licensee within the team represents both parties to the same transaction, a limited agency relationship exists.

**20:69:16:10. Limited agency when appointed agent's client becomes interested in listing procured by responsible broker or designated broker.** If a buyer or tenant represented by an agent of the responsible broker becomes interested in a property listing that was procured by the responsible broker or designated broker, the relationship between the appointed agent and the buyer or tenant is deemed that of disclosed limited agency.

## CHAPTER 20:69:17 AGREEMENTS

Section  
20:69:17:01 Agreements for brokerage services.

Appendix A Agreements, repealed.

**20:69:17:01. Agreements for brokerage services.** Agreements to perform real estate brokerage services must be on forms substantially the same as the forms prescribed by the commission. The forms must comply with the requirements imposed by SDCL 36-21A-130 and this section.

A real estate purchase agreement prepared by a licensee must contain the names of the buyer and seller, an acknowledgment that earnest money was received; the purchase price; any disclosure acknowledgements; any contingencies regarding financing, sale of purchaser's property, and inspections; and provisions for a survey, prorations, warranties, merchantable title, closing, possession, handling of earnest money, mediation, length of time for seller's acceptance, and seller's decision to accept, not accept, or counter buyer's offer.

A real estate auction purchase agreement prepared by a licensee must contain the names of the buyer and seller, the purchase price; any disclosure acknowledgements; and provisions for handling earnest money, prorations, merchantable title, closing, and possession.

A real estate commercial or agricultural purchase agreement prepared by a licensee must contain the names of the buyer and seller; an acknowledgment that earnest money was received; the purchase price; any disclosure acknowledgements; any contingencies regarding financing and inspections; and provisions for prorations, merchantable title, closing, possession, handling of earnest money, length of time for seller's acceptance, and seller's decision to accept, not accept, or counter buyer's offer.



### In Memoriam

The SD Real Estate Commission extends its sincerest sympathy to the families and friends of the following licensee who recently passed away:

Mary K. Burke, Pierre  
Merle M. Miller, Hartford

## Disciplinary Action

**Kim Lloyd, Deadwood, Property Manager.** Findings of Fact, Conclusions of Law, and Order that Ms. Lloyd's actions constitute unprofessional conduct in several ways. Lloyd failed to notify the Commission of the name of the financial institution in which the trust account was maintained and the name of the account on forms provided by the Commission, pursuant to SDCL 36-21A-82. Lloyd failed to protect and promote the interests of the client whom the licensee had undertaken to represent to the best of the licensee's ability, which is unprofessional conduct under SDCL 36-21A-71 (30). Lloyd engaged in unprofessional conduct, under SDCL 36-21A-71 (34), by issuing an insufficient funds check to Complainants. Lloyd engaged in unprofessional conduct, under SDCL 36-21A-71 (32) by committing an act constituting or demonstrating incompetence. Lloyd further violated the rules of the Commission, ARSD 20:69:14:02 by acting as a property manager without a property manager license. Lloyd further engaged in unprofessional conduct by paying commissions to employees who are not licensed by the Commission, a violation of ARSD 20:69:14:02. Ordered that Ms. Lloyd's license be revoked and that she be assessed a penalty of \$2,500, and that she reimburse the Commission costs in the amount of \$1,376.88.

## New Licensees

The South Dakota Real Estate Commission would like to welcome the following new licensees.

### Broker

Armstrong, Kristi J – Sioux City, IA  
Assam, Fred – Sioux Falls  
Berens, Richard A – Buffalo, MN  
Bermel, Bruce C – Pine River, MN  
Carpenter, Michael W – Lake Benton, MN  
Fink, Clara I – Sioux Falls  
Leslie, Lee J – Hermosa Beach, CA  
McGrath, Sherry L – Gillette, WY  
Robinson, Christine B – Valentine, NE  
Steinfadt, Timothy L – Sioux Falls  
Ward, Richard A – Fargo, ND  
Williams, Chad A – Rapid City

**Broker Associate**

Anderson, Steven C – Rapid City  
 Berg, Warren – Strandburg  
 Burleson, Sharon D – Rapid City  
 Cady, Charles “Eric” – Sioux Falls  
 Carver, Mari Ann – Rapid City  
 Cobb, Richard L – Sioux Falls  
 Dannen, Stephanie T – Rapid City  
 Dressen, Ryan E – Dell Rapids  
 Drew, Elizabeth M – Rapid City  
 Enquist, Jeff – Stockholm  
 Evans, Lonnie T – Piedmont  
 Fuller, Susan A – Box Elder  
 Gibson, Norene M – Springfield  
 Hansen, Joni K – Pierre  
 Hill, Thomas M – Deadwood  
 Hotchkin, Melissa A – Sioux Falls  
 Ibis, Amy C – Sioux Falls  
 Jensen, Zach – Beresford  
 Johnsen, Mark C – Sioux Falls  
 Madsen, Tonya M – Burbank  
 Mettler, Kimberly K – Sioux Falls  
 Metzger, Marilyn K – Sioux Falls  
 Miller, Robert D – Hot Springs  
 Nielsen, Lance E – Sioux Falls  
 Oines, Ryan R – Sioux Falls  
 Olson, Ronald D – Madison  
 Overbey, Clark Z – Aberdeen  
 Pedersen, Robby – Arlington  
 Peterson, Cindy A – Pukwana  
 Peterson, Kelli L – Rapid City  
 Petrovic, Marija – Lennox

Pockrandt, Amber N – Brandon  
 Prouty, Melissa – Volga  
 Rallis, Nickolas C – Sioux Falls  
 Rietsema, Aaron L – Sioux Falls  
 Robinson, Helen “Elaine” – Letcher  
 Schaeffbauer, Brandei C – Mobridge  
 Scott, Alan M – Rapid City  
 Sumners, Katherine E – Belle Fourche  
 Sundby, John D – Rapid City  
 Tate, Bonita M – Huron  
 Urban, Travis J – Sioux Falls  
 VandenBosch, Keith D – Harrisburg  
 Vardsveen, Brock M – Arlington  
 Viher, Mindi S – Rapid City  
 Vinson, Sally A – Yankton  
 Ward, Jessi J – Spearfish  
 Wieman, Derek – Marion

**Property Manager**

Azarski, Susan E – Spearfish  
 Bailey, Robyn L – Spearfish  
 Hanssen, Adam L – Centerville  
 Heberling, Shannon L – Lead  
 Kandolin, Jonna K – Sturgis  
 Stewart, Debra L – Spearfish

**Reg. Home Inspector**

Dewsbury, Michael B – Culver, MN  
 Grigg, Tony – Sioux City, IA  
 Jost, Jim L – Watertown  
 Kolleck, Scott – Elk Point  
 Skliris, Dave L – Rapid City

**Res. Rental Agent**

Bakker, Cynthia R – Sioux Falls  
 Dubsky, Donna E – Sioux Falls  
 Engelson, Kathy M – Sioux Falls  
 Farnham, Heather L – Kranzburg  
 Johnson, Linda D – Harrisburg  
 Kinstad, Jonathan – Sioux Falls  
 Kreeger, Mindy L – Sioux Falls  
 Liesinger, Sandra K – Sioux Falls  
 Rogers, Marta – Lead  
 Zigmond, Mandi J – Sioux Falls

**Salesperson**

Christenson, Andrea – Minneapolis, MN  
 Graham, Gary D – Peterson, IA  
 Karnes, Norma E – S. Sioux City, NE  
 Lage, Jerry L – Perry, IA  
 Meidinger, Robert – Ashley, ND  
 Palmer, Ralph J – Gillette, WY  
 Peterson, Tristin D – Appleton, MN  
 Pfaff, Brad J – Vadnais Heights, MN  
 Quade, Lee A – Sioux City, IA  
 Townsend, Molly – Minneapolis, MN  
 Wood, Jessica A – Sundance, WY

**Time Share Agent**

Blessing, Barry R – Keystone

**Auctioneer**

Waltman, Riley G – Box Elder

## APPRAISER UPDATE

This section of the South Dakota Real Estate Review is the responsibility of the South Dakota Department of Revenue and Regulation Appraiser Certification Program. Articles are printed here to communicate pertinent information to those appraisers who receive this newsletter and are licensed under the Certification Program. Appraiser certification inquiries can be directed to Sherry Bren, Program Administrator, 445 East Capitol, Pierre, SD 57501, 605-773-4608

### Appraiser Certification Program Mission – Purpose – Intent

The Appraiser Certification Program was implemented July 1, 1990, pursuant to enactment of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) by Congress.

The mission of the Program is to certify, license and register appraisers to perform real estate appraisals in the state of South Dakota pursuant to Title XI

(FIRREA). The purpose of the Program is to examine candidates, issue certificates, investigate and administer disciplinary actions to persons in violation of the rules, statutes and uniform standards, and approve qualifying and continuing education courses. Title XI intends that States supervise all of the activities and practices of persons who are certified or licensed to perform real estate appraisals through effective regulation, supervision and discipline to assure their professional competence.

### Appraiser Certification Program Advisory Council

Council members provide recommendations to the Secretary of the Department of Revenue and Regulation in the areas of program administration in order to sustain a program that is consistent with Title XI. The Council meets quarterly in public forum. See the Website for meeting information. [www.state.sd.us/appraisers](http://www.state.sd.us/appraisers)



## New Member Appointed to the Advisory Council

Gary R. Viken, Secretary of the Department of Revenue and Regulation, has appointed Jim Dunlap, a State-Certified General Appraiser, of Sioux Falls to serve on the Appraiser Certification Program Advisory Council. The Department welcomes Jim's service on the Council.

## USPAP Q & A

Vol. 7, No. 8, August 2005

### Review Report on Three Appraisal Reports

Question: I have been asked to review three appraisal reports and to report my findings in one appraisal review report. Does USPAP permit this?

#### Don't Accept Unless You Can Appraise For...

Question: I received an appraisal order that says: "If you can't appraise the property for \$xxx,000, you must not accept the appraisal assignment." How should I respond to this appraisal order?

#### Improvement Only Appraisal

Question: In a real estate appraisal, is it permissible to appraise only the improvements?

Vol. 7, No. 9, September 2005

### Sudden Market Changes Related to Catastrophic Events

Question: I live and work just outside the area recently devastated by Hurricane Katrina. My market area is experiencing sudden changes in supply and demand, and real estate sales prices have climbed rapidly. Does USPAP provide advice to real estate appraisers on how to handle sudden market changes brought about by such catastrophic events?

Vol. 7, No. 10, October 2005

### Status of the 2006 Edition of USPAP

Question # 1: When will the 2006 Edition of USPAP be available?

Question # 2: Should appraisers start using the 2006 USPAP in January 2006

Question # 3: Why is the ASB changing the usual annual USPAP schedule?

Question # 4: How long will the 2006 USPAP be effective?

Question # 5: How can I learn more about the 2006 USPAP?

Answers to the above questions can be found at:

[www.appraisalfoundation.org](http://www.appraisalfoundation.org)

## Farm Service Agency – SD Notice INFO-10 – Providing Information to Appraisers

[Article provided by Paul T. Reisch, Past President, South Dakota Chapter of the American Society of Farm Managers and Rural Appraisers (SD Chapter ASFMRA)]

With ongoing input from other members, SD Chapter ASFMRA member Allan Husby has been instrumental in working with Bob Maag and other state Farm Service Agency officials in developing a SD Notice INFO-10 recently distributed to District Directors, COR's and County Offices.

The objective was to develop a "common sense" approach to appraiser needs for Farm Service Agency (FSA) information and to communicate a consistent FSA approach to meeting these needs so that both appraisers and offices understand what is to be released and understand the procedure.

Discussions were held at East River and West River July SD Chapter ASFMRA member meetings regarding desired FSA information. The proposed communication was shared with SD Chapter ASFMRA board members prior to being finalized in the SD Notice INFO-10. After this input, the SD Notice INFO-10 was distributed to county offices at the end of August. The topic was emphasized and discussed at office management meetings in September so all understand what is to be done.

#### Highlights:

As a Freedom of Information Act request (FOIA), the appraiser can make a request in writing by Fax or e-mail. If the appraiser limits the request to information for the subject and 5 or less comparables, the charge to the appraiser will be \$0. If the appraiser wants information for more

properties, the charge would be \$25.00 per appraisal. This line is drawn because there is a \$25.00 dividing line in FOIA regulations that if the administrative cost is less than \$25.00, there is no charge.

The county office will provide the FSA 156 EZ form (program acres & yields info), the EPCE10-R001 form (CRP acres and payment info) and a "Producer Map" (map that includes acres of all fields and labels). The only item struck out of the forms would be the Social Security number.

The county offices would check their files for any conservation easements on the property. In the appraiser's request, they would need to certify that their appraisal **will not** include a copy of form FSA 156 EZ or form EPCE10. These forms would be placed in the appraisers work file only.

The following information can be found at the Appraiser Certification Program website:

[www.state.sd.us/appraisers](http://www.state.sd.us/appraisers)

- Letter to SD Chapter ASFMRA from State Executive Director Steven Cutler
- SD Notice INFO-10
- Sample Appraisal Information Request

## Questions and Answers on the Scope of Work Project March 2005 Appraisal Standards Board

### Introduction

The Appraisal Standards Board's Scope of Work Project is an examination of the proper role of the scope of work and departure concepts in the appraisal process. The ASB's study included a public hearing dedicated to the topic and numerous ASB work sessions. The ASB issued two concept papers in 2003 and two Exposure Drafts 2004 on the Scope of Work Project. An Exposure Draft was issued in February 2005 and additional Exposure Drafts were anticipated. (All publications are available on the website of The Appraisal Foundation.) Public comments were

received in response to all publications. Those comments heavily influenced subsequent work.

Question # 1: What is the scope of work?

Answer: Scope of work is the type and extent of research and analyses in an assignment. Scope of work includes, but is not limited to:

The extent to which the property is identified;

The extent to which tangible property is inspected;

The type and extent of data researched; and

The type and extent of analyses applied to arrive at opinions or conclusions.

In simple terms, the scope of work is the work an appraiser performs to develop assignment results. This is not a new concept. However, changing demands have increased the need for appraisers to understand the flexibility that exists in providing appraisal services.

Question # 2: What is the Scope of Work Project?

Answer: The Scope of Work Project is an examination of the proper roles of the scope of work and departure concepts in the appraisal process. The goals of the project are to:

Improve the clarity of USPAP,

Improve the enforceability of USPAP,

Further promote and enhance public trust in appraisal practice, and

Further the goal of having core standards that change less frequently.

The benefits of the proposed edits to USPAP are resolution of misunderstandings related to departure, enhanced public trust in appraisal practice, and improved USPAP clarity.

Question # 3: Why propose a change regarding the scope of work and departure concepts in USPAP?

Answer: The scope of work decision drives the full range of activities in the development process. In contrast, the DEPARTURE RULE only applies to portions of the development process governed by Specific Requirements. Having two overlapping processes causes confusion.

Moreover, departure addresses only a single dimension of the appraisal development (the **application** of a specific requirement) while scope of work addresses both the **application** and **extent** of

development. For example, development of an approach may be excluded by invoking departure, but the scope of work analysis addresses both the decision to develop an approach and the determination of the appropriate technique and what constitutes appropriate and sufficient data and analyses to support the conclusion.

In communicating assignment results, the emphasis of the DEPARTMENT RULE on the use of associated labels (“Complete” and “Limited”) is potentially misleading and may be insufficient for intended users to make informed decisions.

Question # 4: What changes are proposed?

Answer: The major conceptual change is eliminating the DEPARTURE RULE, and introducing a SCOPE OF WORK RULE that recognizes the importance of problem identification and the scope of work determination in the appraisal process. There are numerous related edits, but this is the main focus.

The PREAMBLE states that the primary goal of USPAP *is to promote and maintain a high level of public trust in appraisal practice*. The objectives of the ETHICS RULE and COMPETENCY RULE form the basis of public trust and credibility. Problem identification provides the basis for determining the scope of work necessary to develop credible assignment results. The Standards Rules provide specific performance requirements for the development of credible assignment results.

Question # 5: What is the effect of these changes?

Answer: The basic structure of USPAP will be altered. Rather than a starting set of “maximum” performance standards and allowing something less (via departure), there will be an identified minimum set of standards that apply in all appraisal, appraisal review and appraisal consulting assignments.

While this conceptual shift will require revisions to the USPAP document, these revisions will not change the requirements of the development process. The scope of work (type and extent of research and analyses) will continue to be based on what is required to produce credible assignment results.

The existing requirement to report the scope of work will take on greater

prominence because intended users will rely on this disclosure to understand the type and extent of research and analyses performed in the assignment, rather than relying on the simple (and potentially misleading) labels, “Complete Appraisal” and “Limited Appraisal.”

Question # 6: If the proposed changes are primarily conceptual, what will be the most visible change?

Answer: The most visible change in appraisal practice will be discontinued use of the terms “Complete” and “Limited” to describe the appraisal process.

The scope of work that is appropriate under the current USPAP for a given assignment will continue to be appropriate if the proposed revisions are adopted. The proposed revisions will not permit a scope of work that is not appropriate under the current USPAP. [For more information on the Scope of Work Project, refer to the concept papers and Exposure Draft materials posted by the Appraisal Standards Board (ASB) on The Appraisal Foundation website ([www.appraisalfoundation.org](http://www.appraisalfoundation.org)).

## Disciplinary Action

The Appraiser Certification Program publishes disciplinary action involving revocation and suspension of a certificate and denial of an application involving unprofessional conduct. The following disciplinary action has been taken by the Appraiser Certification Program:

**Complaint Case # 04-174, Anita L. Petersen, Sioux Falls.** The Department of Revenue and Regulation issued a Final Order Suspending Anita L. Petersen’s State-Licensed Appraiser Certificate for Ten (10) days effective May 16, 2005 with the terms and conditions that the appraiser pay an unprofessional conduct penalty fee in the amount of \$500, and refrain from supervising any South Dakota appraiser performing an appraisal of real property located in South Dakota until successful completion of all courses agreed to by Petersen for violations of ARSD 20:14:06:01 (violation of USPAP SUPPLEMENTAL STANDARDS RULE, COMPETENCY RULE, Standard 1 and Standard 2), and ARSD 20:14:11:03(10) and (13).

## **Notice of Public Hearing to Adopt Rules**

A public hearing will be held in the Department of Revenue and Regulation First Floor Conference Room, Anderson Building, Pierre, South Dakota, on November 18, 2005, at 2:00 p.m., to consider the adoption and amendment of proposed rules.

Persons interested in presenting data, opinions, and arguments for or against the proposed rules may do so by appearing in person at the hearing or by sending them to the South Dakota Department of Revenue and Regulation, Appraiser Certification Program, 445 East Capitol Avenue, Pierre, South Dakota 57501. Material sent by mail must reach the Department of Revenue and Regulation by November 17, 2005, to be considered at the Public Hearing. The Department

will keep the comment period open until November 28, 2005 for written comments.

After the hearing, the Department will consider all written and oral comments it receives on the proposed rules. The Department may modify or amend a proposed rule at that time to include or exclude matters that are described in the public notice.

Copies of the proposed rules may be obtained from the Department of Revenue and Regulation or from the Appraiser Certification Program website: [www.state.sd.us/appraisers](http://www.state.sd.us/appraisers)

### **New Licensees – August/September**

Erik D. Olness, State-Registered – Rapid City, SD

Todd Williams, State-Registered – Watertown

Samuel T. Gill, State-Certified General – Dexter, MO  
James H. Swatos, State-Certified General – Chicago, IL  
Martin K. Olson, State-Certified General – Scottsbluff, NE  
Dennis E. Vogan, State-Certified General – Overland Park, KS  
Brad A. Weiman, State-Certified General – Denver, CO

### **Review of Cases as of September 30, 2005**

For the period January 1, 2005 through September 30, 2005 there have been 6 upgrade applications, 1 new application claiming experience, and 6 complaints submitted to the Department.

Upgrades – 5 upgrades issued; one agreed disposition

New Application – 1 Pending

Complaints – 3 dismissed with no action; 3 pending

SD Real Estate Commission  
221 W Capitol Ave, Suite 101  
Pierre, SD 57501